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Counsel to Ann Otsuka, Janis Keefe, Corinne Phipps,
and Justin Kiser

**ENDORSED
FILED**
San Francisco County Superior Court

APR 23 2007

GORDON PARK-LI, Clerk
BY WESLEY RAMIREZ
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
FOR THE CITY AND COUNTY OF SAN FRANCISCO

ANN OTSUKA, an individual; JANIS
KEEFE, an individual; CORINNE PHIPPS, an
individual; and JUSTIN KISER, an individual;
and on behalf of all others similarly situated,

Plaintiffs,

vs.

POLO RALPH LAUREN CORPORATION; a
Delaware Corporation; POLO RETAIL, LLC.,
a Delaware Corporation; POLO RALPH
LAUREN CORPORATION, a Delaware
Corporation, doing business in California as
POLO RETAIL CORP; FASHIONS OUTLET
OF AMERICA, INC., a Delaware Corporation
and DOES 1-500, inclusive

Defendants.

Case No.: CGC-06-452655

**DECLARATION OF PATRICK R. KITCHIN
IN SUPPORT OF MOTION TO BE
RELIEVED AS COUNSEL**

Hearing Date: June 19, 2007
Hearing Time: 2:30 p.m.
Department: 304
Hon. Richard Kramer

Complaint Filed: May 30, 2006

I, Patrick R. Kitchin, declare:

1. I am an attorney at law licensed to practice before the Courts of the State of California,
serve as co-counsel to the plaintiffs in this case, and make this declaration based on personal
knowledge.

1 2. Over the past five months, I have attempted on numerous occasions to reach Ann
2 Otsuka to discuss the status of this case.

- 3 a. Between approximately December 10, 2006, and April 21, 2007, I left around
4 6-10 telephone messages on Ms. Otsuka's home telephone answering machine
5 ((650) 940-1780) asking her to contact my co-counsel Daniel Feder and/or me.
6 The answering machine identifies Ms. Otsuka and I recognize her voice. I
7 have not received any response from Ms. Otsuka to my numerous voicemail
8 messages
- 9 b. On December 1, 2006, I sent a letter to Ms. Otsuka by Federal Express to her
10 home, 230 Bush Street, Mountain View, CA 94041, asking her to contact my
11 office as soon as possible. I did not receive any response to my letter to Ms.
12 Otsuka.
- 13 c. On December 6, 2006, I sent a letter to Ms. Otsuka by U.S. mail (home
14 address) asking for her assistance with discovery aimed to her. She did not
15 respond.
- 16 d. On January 10, 2007, I sent an email to Ms. Otsuka's email account asking her
17 to contact me immediately. She did not respond to this email.
- 18 e. On January 15, 2007, I sent another email to Ms. Otsuka's email account
19 asking her to contact me immediately. She did not respond to this email.
- 20 f. On January 11, 2007, I sent a letter to Ms. Otsuka by Federal Express to her
21 home, asking her to contact my office as soon as possible. I did not receive
22 any response to my letter to Ms. Otsuka.
- 23 g. On April 13, 2007, I left a final telephone message for Ms. Otsuka, informing
24 her that my co-counsel Daniel Feder and I would seek to withdraw from
25 representing Ms. Otsuka unless she contacted one of us immediately. On that
26 same date, I sent a letter by Federal Express to Ms. Otsuka describing the
27 consequences of the withdrawal of her legal counsel in this case. I informed

1 her we would seek withdrawal as her counsel, but that we would not seek to
2 dismiss her claims unless specifically directed by her to do so.

3 3. The telephone number I have for Ms. Otsuka is current and working. The voice
4 mail message identifies "Ann" and I recognize her voice.

5 4. The home address of Ms. Otsuka is current as of April 23, 2007. On that date, I
6 personally ran credit and banking headers on Ms. Otsuka on Merlin Information
7 Services, a subscription database service utilized by office to conduct skip trace
8 searches. I was unable to identify and verify a more recent address or telephone
9 number for Ms. Otsuka.

10 5. On April 23, 2007, I sent Ms. Otsuka a completed Substitution of Attorney-Civil
11 form (MC-050) asking her to sign the form and return it to my office. If I receive
12 the completed form before the date of this hearing, I will file it and remove this
13 hearing from the court's calendar.

14 I declare under penalty of perjury under the laws of the State of California that the
15 foregoing is true and correct and that this declaration was made on April 23, 2007, in San
16 Francisco, California.

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19 Patrick R. Kitchin
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